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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
WILSON, LEE D	

ART UNIT	PAPER NUMBER
3723	

DATE MAILED: 07/29/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

EC

Office Action Summary	Application N .	Applicant(s)	
	10/067,849	SMITH, CHAD R.	
	Examiner	Art Unit	
	LEE D WILSON	3723	

-- The MAILING DATE of this communication appears on the cover sheet with the c rrespondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____ .

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-8 is/are pending in the application.

4a) Of the above claim(s) 6-8 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-5 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4 .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Election/Restriction

1. Applicant's election with traverse of Group I, claims 1-5 in Paper No. 10 is acknowledged. The traversal is on the ground(s) that the restriction is improper and a financial burden is imposed. This is not found persuasive because the claimed inventions for an election restriction are based of the claimed invention as recited in the independent claims; therefore, these claims are broad and the examiners assertion is correct. In regard to the applicant stating that the office is imposing a financial burden upon the applicant, the examiner has applied the same practice and laws that everyone faces. There is no malevolent intent to drive up the cost of the applicant; furthermore, the total cost to applicant is not within the control of the office anyway because every law office has there particular method of charging which is not within control of the office. The office has considered the applicant already because it does not charge small entities the same as corporate entities. It is also inappropriate to blame the office for cost when it is clear that each application is entitled to one invention per application. The applicant has stated that it reserves the full protection against double patenting; therefore, the examiner also concurs with that insertion that more than implies that both inventions are distinct.

The requirement is still deemed proper and is therefore made **FINAL.**

2. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Drawings

3. Figure 6a should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

4. New formal drawings are required in this application because the lead lines are faded, there is back thick stripe appearing on the bottom of many of the drawing, Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

5. Color/Black&White photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) is granted permitting their use as acceptable drawings. In the event that applicant wishes to use the drawings currently on file as acceptable drawings, a petition must be filed for acceptance of the color photographs or color

drawings as acceptable drawings. Any such petition must be accompanied by the appropriate fee set forth in 37 CFR 1.17(h), three sets of color drawings or color photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

> The patent or application file contains at least one drawing executed in color. Copies of this patent or patent application publication with color drawing(s) will be provided by the U.S. Patent and Trademark Office upon request and payment of the necessary fee.

Color/ Black&White photographs will be accepted if the conditions for accepting color drawings have been satisfied.

6. The drawings are objected to because figure 5 should not be a photograph. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

7. The disclosure is objected to because of the following informalities:

a. On page 8, lines 8 and 11&12, the element number 210 is used for "a wheel 210", "the sheave 210", and "a chain hoist 210".

b. On page 8, lines 17&18, "A pull rope . . . tensioned conductor."How does pulling the rope cause rotation because rotation will happen upon releasing the cable from the second end? The tension will automatically unwind.

c. On page 8, lines 18-21, "That rotation . . . two conductors." How can the tension be different for each conductor when both of the conductors are hooked up to the same pulling force? Furthermore, the tension should be the same because of the single pulling force acting on both conductors at the same time.

d. On page 9, 1-3, "In a process . . . roller 208." What does the size of the snatch block have to do with evening the tension when the process is described as being used after using the string roller. The size is not even mentioned in the above process so how can this statement be made. Applicant should state that the snatch block used in the process is two large to fit into the stringer.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

8. Claim 5 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. On page 8, lines 18-21, "That rotation . . . two conductors." How can the tension be different for each conductor when both of the conductors are hooked up to the same pulling

force? Furthermore, the tension should be the same because of the single pulling force acting on both conductors at the same time. The claim is not understood because of the questions with the specification. How are the tensions different in the two conductors when you have a single pulling force which is the same being applied on both conductors.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless --
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Admitted Prior Art (fig.6a).

Admitted Prior Art (fig.6a) discloses the claimed invention recited in claim 1.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are

such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

12. Claims 2 -3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (fig.6a) in view of Mitchell (4858977) and/or Hutlin (3850468).

a. Admitted Prior Art (fig.6a) is discussed above.

b. Admitted Prior Art (fig.6a) does not swivel.

c. Mitchell (4858977) and/or Hutlin (3850468) disclose hook having a swivel ((26 which provides a swivel in fig.1 and element 58) &32 which allows the hook to turn on a rope without binding up.

d. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Admitted Prior Art (fig.6a) device by providing the hook with a swivel as taught by Mitchell (4858977) and/or Hutlin (3850468)which allows the hook to turn on a rope without binding up.

13. Claims 2 -4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art (fig.6a) in view of Brackin (3612596).

a. Admitted Prior Art (fig.6a) is discussed above.

b. Admitted Prior Art (fig.6a) does not swivel, clevis, and sheave in a single component.

c.Brackin (3612596) disclose hook having a swivel (24), clevis (20), and a sheave (11) in a single component which allows hook to use a sheave to exert force on workpieces.

d. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the Admitted Prior Art (fig.6a) device by providing the hook hook having a swivel, clevis, and a sheave as taught by Brackin which allows hook to use a sheave to exert force on workpieces.

Conclusion

14. While the Examiner might speculate as to what is meant by the claim language, the uncertainty provides the Examiner with no proper basis for making the comparison between that which is claimed and the prior art. Rejections under 35 U.S.C. § 103 should not be based upon considerable speculation as to the meaning of terms employed and assumptions as to the scope of the claims. *In re Steele,* 134 USPQ 292. When no reasonably definite meaning can be ascribed to certain terms in a claim, the subject matter does not become obvious, but rather the claim becomes indefinite. *In re Wilson,* 165 USPQ 494. **In regard to claim 5 no prior art has been applied in view of the 112 rejections.**

15. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ito, Lindsey et al, Vugrek, Yeager, and Eitel disclose a device.

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lee Wilson whose telephone number is (703) 305-4094.

ldw

July 18, 2003

LEE D. WILSON
PRIMARY EXAMINER